APPENDIX D

CONSTITUTION OF THE STATE OF CALIFORNIA
1879
ARTICLE XIII. TAXATION

§ 19. Pipelines, flumes, and other waterways within two or more counties; railroad and utilities properties; periodic assessment; restrictions or changes; delegation of duties

Sec. 19. The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property.

No other tax or license charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business corporations. This restriction does not release a utility company from payments agreed on or required by law for a special privilege or franchise granted by a government body.

The Legislature may authorize Board assessment of property owned or used by other public utilities.

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee.

REVENUE AND TAXATION CODE
DIVISION 1. PROPERTY TAXATION

§ 721. Pipelines, flumes, etc.; railroads and utilities; annual assessment and valuation

The board shall annually value and assess all of the taxable property within the state that is to be assessed by it pursuant to Section 19 of Article XIII of the Constitution and any legislative authorization thereunder.

§ 722. State-assessed property; assessment formula; preparation of roll

State-assessed property shall be assessed at its fair market value or full value as of 12:01 a.m. on the first day of January. The board shall annually prepare an assessment roll of the assessments made by it for transmittal to county auditors and city auditors as hereinafter provided in this chapter.

§ 731. Unitary property valuation; notice of assessed value; declaration of intent to petition and petition for reassessment

Each year between the first day of January and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where a petition for reassessment of the unitary property may be filed. The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing the declaration of intent to petition.

§ 732. Nonunitary property valuation; notice of assessed value; declaration of intent to petition and petition for reassessment

Each year between the first day of January and the last day of June, upon valuing the nonunitary property of an assessee, the board shall mail to the assessee at its address shown in the records of the board a notice stating the amount of the assessed value of the assessee's nonunitary property. The notice shall advise the assessee of the date by which and the place where a declaration of intent to petition for reassessment, and the date by which and place where a petition for reassessment of the nonunitary property may be filed. The date for filing of the declaration of intent shall not be less than 20 days from the date of the mailing of the notice of value and the date for filing the petition shall not be less than 30 days from the date set for filing of the declaration of intent to petition.

§ 733. Failure to file declaration of intent or failure to file petition for reassessment; finality of assessment; extension upon written request

If the assessee fails to file a declaration of intent to file a petition for reassessment within the period specified in the notice mailed by the board in accordance with Section 731 or Section 732, an assessment of unitary or nonunitary property of the assessee shall become final at the expiration of the period specified. If the assessee files a petition for reassessment within the period specified for filing a declaration of intent to petition, no declaration of intent need be filed.

If, after a declaration of intent to file a petition has been timely filed, a timely petition for reassessment is not filed with the board, an assessment of unitary or nonunitary property of an assessee shall become final at the expiration of the period specified for filing a petition in the notice given in accordance

with Section 731 or Section 732.

The board may extend the period for filing a petition for reassessment once for a period not to exceed 15 days, provided a written request for the extension is filed with the board prior to the expiration of the period for which the extension may be granted.

§ 741. Petition for reassessment; grounds; delivery

A petition for reassessment of unitary or nonunitary property shall be in writing and shall state the specific grounds upon which it is claimed a correction or adjustment of the assessment is founded. The petition shall be delivered to the board at its headquarters office in Sacramento.

§ 742. Time and place of hearings; reassessment petitions; notice

Upon receipt of a timely petition for reassessment, the board shall set a time and place within the state for hearing on the petition. Notice thereof shall be mailed to the assessee at its address as shown in the records of the board, not less than 10 working days in advance of the date of the hearing.

§ 743. Hearings; continuation; open to public; record; transcript

The hearing may be continued by the board for good cause. The hearing shall be open to the public, except that upon conclusion of the taking of evidence the board may deliberate in private with the aid of its staff in reaching a conclusion. Upon written request, the board shall make a full record of the hearing and furnish the

petitioner with a transcript thereof at the petitioner's expense.

§ 744. Notice of decision on petition for reassessment; findings and conclusion; time for completion of decisions; correct value

(a) The board shall notify the petitioner of its decision on a petition for reassessment by mail and shall make written findings and conclusions if requested at or prior to the commencement of the hearing. The board shall send a periodic report of its decisions and any written findings and conclusions thereon to each county in which affected state-assessed property is situated. The findings shall fairly disclose the board's determination of material factual issues and shall contain a statement of the method or methods of valuation used by the board in valuing the property. Notwithstanding the requirement for a statement of method or methods, the board's approval of a settlement of a lawsuit contesting the value of state-assessed property shall be sufficient disclosure when value is determined in accordance with a board-approved settlement. Decisions of the board on petitions for reassessment of state-assessed property shall be completed on or before December 31.

(b) When the value of an assessee's state-assessed property is determined, after a hearing on a petition for reassessment, to be different from the value originally adopted by the board, the board shall determine the year in which the corrected value is to be entered on the roll. The correct value may be entered on the roll for the fiscal year in which the determination is made, or the difference between the original and the corrected value may be entered as an increase or decrease in the assessment for the succeeding fiscal year. If the corrected value is entered on the roll for the fiscal year in which it is determined, and the board roll has been transmitted to the county auditors, the board shall make the corresponding changes in allocations and transmit the roll corrections to the county auditor.

(c) If the amount of the correction is to be entered on the roll for the succeeding fiscal year, an amount is to be added in lieu of interest. If the correction results in a reduction in assessed value, there shall be added to the reduction, in lieu of interest, 9 percent of the difference between the original assessed value and the reduced assessed value. If the correction results in an increase in assessed value, there shall be added to the increase, in lieu of interest, 9 percent of the difference between the original assessed value and the increased assessed value.

§ 755. Estimate of total unitary and operation nonunitary value of state- assessed property; counties and revenue districts; transmission to county auditors, inspection

(a) On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value and operating nonunitary value of state- assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total assessed value of state- assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to such changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection of any interested person or entity.

(b) Notwithstanding subdivision (a), in making the estimate referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivision (i) of Section 98.9 shall be allocated by revenue district.

§ 756. Transmission of roll to county auditors; contents; estimate of total assessed value of state-assessed property; statement of roll change

(a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district which did not levy a tax or assessment during the preceding year. Such roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivision (i) of Section 98.9 shall be enrolled by revenue district.

§ 2601. Secured roll; delivery to collector; auditor's affidavit; machine-prepared roll or roll retained in electronic data-processing equipment; procedure

(a) On or before the fourth Monday in September, the auditor shall deliver the secured roll to the tax collector, with an affixed affidavit, subscribed by him, as follows:

"I, _____, Auditor of _____ County, swear that I received the assessment roll from the assessor, with his affixed affidavit; that I have corrected it as required by the State Board of Equalization; and that I have reckoned the respective sums due as taxes and have added the columns of valuations and taxes, as required by law."

If the roll is a machine-prepared roll, the auditor shall deliver the assessment roll to the assessor and shall deliver the roll on which he has extended taxes to the tax collector, with an affixed affidavit, subscribed by him, as follows:

"I, _____, Auditor of _____ County, swear that the attached roll is a reproduction of the roll prepared by the assessor and corrected by the State Board of Equalization; and that I have reckoned the respective sums due as taxes and have added the columns of valuations and taxes as required by law."

(b) If the roll is a machine-prepared roll, and the tax bills are, with the consent of the tax collector and the approval of the board of supervisors, also machine-prepared by the auditor, the auditor shall, on or before the fourth Monday in September, deliver the assessment roll to the assessor, and shall, on or before October 16, deliver the roll on which he has extended taxes to the tax collector, with an affixed affidavit, subscribed by him, as follows:

"I, _____, Auditor of _____ County, swear that the attached roll is a reproduction of the roll prepared by the assessor and corrected by the State Board of Equalization; and that I have reckoned the respective sums due as taxes and have added the columns of valuations and taxes as required by law."

(c) If the extended roll is retained in electronic data-processing equipment and no physical document is prepared and if the tax bills are, with the consent of the tax collector and the approval of the board of supervisors, machine prepared, the auditor shall, on

or before the fourth Monday in September, deliver the assessment roll to the assessor, and shall, on or before October 16, deliver the completed tax bills to the tax collector with an affidavit, subscribed by him, as follows:

"I, _____, Auditor of _____ County, swear that the tax bills herewith submitted to you are the result of extending the roll prepared by the assessor and corrected by the State Board of Equalization and that I have determined the respective sums due as taxes, in the total amount of $_____, as required by law."

§ 2602. Collector's duty

The tax collector shall collect all property taxes.

§ 2603. Taxes charged to collector

At the time the auditor delivers the local assessment roll to the tax collector, he shall charge the collector with the taxes extended thereon, together with the taxes extended on the board roll.

§ 5148. Action against board and county based on evaluation, assessment ratio, or allocation of value of state-assessed property; procedure; grounds for maintenance of action

Notwithstanding Section 5140, an action to recover taxes levied on state-assessed property arising out of a dispute as to an assessment made pursuant to Section 721, including a dispute as to valuation, assessment ratio, or allocation of value for assessment purposes, shall be brought under this section. In any action brought under this section, the following requirements shall apply:

(a) The action shall be brought by the state assessee. There shall be a single complaint with all parties joined therein with respect to disputes for any year.

(b) The action shall name the board and the county or counties. When a county is named which collected taxes on behalf of a city or cities, the county shall give notice of that action to the city or cities within 30 days of receipt of advice from the board of the action. A fee shall be payable by the state assessee in an amount prescribed by the court to cover the reasonable costs incurred by a county or counties in giving that notice. Any city receiving notice of the action filed against the board and the county may, within 30 days of the receipt of that notice, intervene in that action. Whether or not a city intervenes in the action, any judgment rendered for an assessee shall be entered exclusively against the county; however, the county shall be entitled to recover separately from the city or cities and other tax entities those taxes collected by the county on behalf of the city or cities and other tax entities which are subject to refund to the assessee as the result of the judgment. Payment to the taxpayer upon the judgment and any interest thereon may be deferred by the county until the apportionment of property tax revenue next following the date of the judgment, or as the county and the taxpayer may otherwise agree. Interest shall accrue during any deferral period unless the county and taxpayer otherwise agree. The county may if it chooses to do so offset the amount of the judgment and interest recoverable by it from the city or cities and other tax entities against amounts held in the county treasury therefor or against amounts due and payable thereto, including, but not limited to, property tax apportionments. The amount of the fee required by this section shall not be recoverable by the assessee in the action and no judgment entered in the action in favor of the assessee shall provide for the recovery of the fee.

As used in this section, "county" includes a city and county.

(c) Service of the summons and complaint shall be only upon the board. The board shall serve as agent of the defendant county or counties for the purpose of service of process. A fee shall be payable by the state assessee in an amount prescribed by the court

to cover all reasonable costs incurred by the board while acting in its capacity as agent for the defendant counties.

(d) Venue of the action shall be in any county in which the Attorney General of California has an office or in which the state assessee has a significant presence.

(e) The action shall be limited in the case of valuation and allocation disputes to the grounds specified in the following:

(1) A petition for reassessment filed under Section 741, or any proceeding thereon.

(2) A petition for correction of allocated assessment filed under Section 747, or any proceeding thereon.

(f) A timely filed petition for reassessment or petition for correction of allocated assessment shall constitute a claim for refund if the petitioner states in the petition it is intended to so serve.

(g) The action shall be commenced only after payment of the taxes in issue and within four years after the latest of the dates that the State Board of Equalization mailed its decision or its written findings and conclusions on the following:

(1) A petition for reassessment filed under Section 741 and intended to constitute a claim for refund.

(2) A petition for correction of allocated assessment filed under Section 747 and intended to constitute a claim for refund.

(h) The action shall not be joined with any action filed under Section 5140.

(i) Any refund of tax overpayments and any interest thereon,

determined in any action brought under this section to be due shall be made by the defendant county or counties.

§ 5170. Assessment refund actions; judicial review

In suits for the refund of state-assessed property taxes, the trial court shall not be restricted to the administrative record, but shall consider all evidence relating to the valuation of the property admissible under the rules of evidence. The court shall base its decision upon the preponderance of the evidence before it.